Opening Statement of the Honorable Joe Pitts
Subcommittee on Health
Hearing on "The Obama Administration's Medicare Drug Experiment: The Patient and Doctor Perspective"
May 17, 2016

(As Prepared for Delivery)

Today's hearing will take a closer look at a recent proposed rule from the Centers for Medicare and Medicaid Services (CMS) on a Part B Drug Payment Model.

This proposal represents the biggest change in Medicare drug reimbursement in years. There are several aspects that are concerning to many, including: the mandatory nature of this so-called demonstration project; the breadth of the experiment – essentially across the nation in virtually all primary care service areas; and the timing – these major changes would take place as early as July and on top of the current implementation of MACRA – the new payment structure for physicians that replaced SGR (Sustained Growth Rate).

But perhaps the most concerning aspect of this proposal is that it came from unelected bureaucrats in this Administration who made decisions behind closed doors affecting our seniors and their health care. What happened to the transparency and regard for stakeholders that we expect when considering proposals of this magnitude?

In fact, these concerns over provider reimbursement under the Medicare Part B program are so considerable, that recently 242 bipartisan Members of Congress wrote to the Administration and asked that the rule be withdrawn. Several other letters from both the House and Senate have been sent detailing numerous and serious concerns. Moreover, our Health Subcommittee colleague, Dr. Larry Bucshon, recently introduced legislation that would stop this proposal from advancing. So today we are going to hear from doctors and patient advocates about their views on this proposed rule.

I want to make clear at the outset that we are not opposed to demonstration programs and in fact have supported a number which test certain models in limited areas to determine positive (or negative) outcomes and whether such demonstrations should be advanced in larger contexts. However, the health and well-being of seniors is nothing to be experimented with.

This particular rule could result in grave consequences for our seniors. CMS is proposing to reduce reimbursement for physician administered drugs, with half of the country's providers seeing dramatic cuts. The other half will retain current reimbursement levels but half of those will be used to test out vague value-based purchasing arrangements. And after a very long five years, CMS will see what happened.

Keep in mind, Medicare is the largest payer of provider-administered drugs. The Part B program covers provider-administered injectables and certain other drugs. For physician offices and outpatient clinics, the provider purchases and administers the product before submitting a claim to Medicare.

After purchasing a drug from a wholesaler or specialty distributor, the provider will store the product at its location. The provider then administers the drug to the patient. After the patient receives the drug and any other medical care, the provider then submits a claim for

reimbursement. Hence the term, buy-and-bill, because the medical claim is submitted after the provider has purchased and administered the drug.

The Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA) requires Medicare to use a drug's Average Sales Price (ASP) + 6% for reimbursing provider-administered injectable drugs. ASP is based on the manufacturer's actual selling price, minus all price concessions.

CMS asserts this system somehow gives incentives for physicians to prescribe more-expensive drugs and therefore has proposed this nationwide two-phase experiment which would allow half of the providers to continue to be reimbursed ASP + 6% while the other half would receive the lower ASP + 2.5% rate plus a fixed $16.80 payment. However, with the impact of sequestration calculated in, the reimbursement falls to nearly ASP + 0%.

This proposal is so far-reaching and has caused so much concern it is difficult to imagine any meaningful conclusions can be drawn because marketplace realities will undermine the integrity of this massive and unprecedented experiment on patients and providers.

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